

1 JUDGE DAVID G. ESTUDILLO
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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 MICHAEL JASON LAYES
13 a/k/a MIKEY DIAMOND STARRETT,

14 Defendant.

NO. CR21-5334DGE

MOTION TO CONTINUE
PRETRIAL MOTIONS CUTOFF
DATE, PRETRIAL
CONFERENCE AND TRIAL
DATE

NOTED: November 30, 2021

15 COMES NOW the defendant, Michael Jason Layes a/k/a Mikey Diamond Starrett, by and
16 through his attorney, Lance M. Hester of the HESTER LAW GROUP, INC., P.S., and moves this
17 Court for an order continuing the pretrial motions cutoff date, pretrial conference and trial date
18 presently scheduled for December 6, 2021.

19 THIS MOTION is based on the files and records herein and the Declaration of Lance M.
20 Hester filed in support thereof, and 18 U.S.C. §§ 3161(h)(7)(B)(iv), (h)(l)(D), and (h)(7)(A).

22 RESPECTFULLY SUBMITTED this 24th day of November, 2021.

23 HESTER LAW GROUP, INC., P.S.

24
25 */s/ Lance M. Hester*
26 Lance M. Hester, WSBA #27813
27 Attorney for Defendant
lance@hesterlawgroup.com

MOTION TO CONTINUE - 1

HESTER LAW GROUP, INC., P.S.
1008 So. Yakima Ave., Suite 302
Tacoma, WA 98405
(253) 272-2157 / Fax: (253) 572-1441
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1 I, Lance M. Hester, hereby declare as follows:

2 1. As the court is aware, on December 19, 2021, this case was set for trial to occur
3 on December 6, 2021 and I was then appointed to represent Mr. Starrett. Until November 19,
4 2021, Mr. Starrett was self-represented/pro-se, and I was acting as standby counsel.
5

6 2. I am unable to be prepared for trial by the currently scheduled trial date.
7 During the November 19, 2021 hearing, Mr. Starrett expressed on the record his willingness to
8 have the matter continued should I find myself unable to prepare and proceed to trial.

9 3. It is my preference this matter be continued well into 2022. It is well-known
10 the government is pursuing additional charges and unfortunately those charges are reported to
11 require the involvement of not just the Department of Justice but the Attorney General. The
12 Attorney General's office does not appear to have acted on the case.
13

14 4. An acquittal on the instant case would make no impact on Mr. Starrett's
15 potential sentencing should his anticipated additional charges result in conviction. Obviously,
16 no attorney can guarantee Mr. Starrett an acquittal of the present firearm possession charge. If
17 convicted of the present charge, Mr. Starrett's criminal history category and sentencing
18 guidelines levels will be affected when he faces the pending additional charges. His resulting
19 potential sentencing range, if convicted on the charges that the government anticipates, would
20 accordingly be higher. While Mr. Starrett has been briefly oriented to this subject, Mr. Starrett
21 deserves further education on this important issue.
22

23 5. I have spent additional time reviewing the issues in the present case that is set
24 for trial on December 6, 2021. My recent appointment to full representation has not provided
25 time sufficient for me to properly prepare for the trial. Nor does it give me adequate time to
26 adjust the rest of my caseload.
27

MOTION TO CONTINUE - 2

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1 6. Mr. Starrett has not yet had the chance to discuss with me the issues involved in
2 executing a Speedy Trial Act Waiver. Should he decide to execute the waiver, I request the
3 court re-set the case well into 2022. If he will not execute the waiver, I ask the court to set the
4 case to the last day possible before the holidays, which I assume is December 20, 2021.
5

6 7. I hereby declare under penalty of perjury under the laws of the State of
7 Washington that the foregoing is true and correct.
8

9 DATED this 24th day of November, 2021 at Tacoma, Washington.
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11 Lance M. Hester, WSBA #27813
12 lance@hesterlawgroup.com
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MOTION TO CONTINUE - 3

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CERTIFICATE OF SERVICE

Lee Ann Mathews, hereby certifies under penalty of perjury under the laws of the State of Washington, that on the date set forth below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record for the plaintiff and co-defendants, if any, and I hereby certify that I have mailed the document by U.S. Postal Service to Michael Jason Layes, a/k/a Mikey Diamond Starrett, defendant.

Signed at Tacoma, Washington this 29th day of November, 2021.

/s/ Lee Ann Mathews
LEE ANN MATHEWS

MOTION TO CONTINUE - 4

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